IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6467 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

INDUSTRIAL JEWELS PVT. LTD

Versus

BHAVNAGAR MUNICIPAL CORPORATION

Appearance:

MR KM PATEL for Petitioner

MR JR NANAVATI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/04/2000

ORAL JUDGEMENT

#. Rule. Mr.Nanavati waives service of Rule on behalf of respondent. The matter is taken up for final hearing on the request of learned counsel for the parties.

#. One of the contention raised by learned counsel for the petitioner is that the Commissioner of Bhavnagar Municipal Corporation, under its order dated 1.12.97 decided that on the artificial stone, as per the case of the petitioner what he is reporting, the octroi is chargeable at 3% ad-valorem. The successor of the office of the Commissioner reviewed this order under its order dated 28th July 1998 and held that 5% of the octroi ad-valorem is chargeable on stone is payable by the petitioner.

#. This order, what Mr.Patel submits, has been passed without notice and opportunity of hearing to the petitioner. Mr.Nanavati, learned counsel for the respondent fairly admits that this order has been passed without any notice and opportunity of hearing to the petitioner.

#. Once the earlier Commissioner of the Corporation ordered in favour of petitioner, then leaving apart the question whether the successor Commissioner has power to review or not, if he desires to review this order, basic principles of natural justice are to be followed. This has not been done in the present case and only on this short ground, this special civil application succeeds and the same is allowed and the order dated 28th July 1998 of the Commissioner, Bhavnagar Municipal Corporation, Annexure-J, is quashed and set aside. However, it is open to the Commissioner, Bhavnagar Municipal Corporation to pass a fresh order after hearing the petitioner. Rule is made absolute accordingly with no order as to costs.

(S.K.Keshote, J.)

(sunil)